IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

CRL.A.No. 1748 of 2003()

ST.2959/2000 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

APPELLANT: COMPLAINANT:

THRESIAMMA, W/O. VARGHESE,
ELAVATHUNGAL, RESIDING AT KANNANKULATH,
PARAKKADAVU KARA, PARAKKADAVU VILLAGE.

BY ADV. SRI.V.K.VEERAVUNNY
SRI.K.Y.TOMY

RESPONDENTS: ACCUSED & STATE:

1. VELAYUDHAN, S/O. RAMAN,
VILAKKUPURATH HOUSE, PARAKKADAVU KARA,
-DO- VILLAGE.

2. MANOHARAN, S/O. RAMAN, -DO- -DO-.

3. MOHANAN, S/O. RAMAN, -DO- -DO-.

4. VIJAYAN,
CHERUTHALAPARAMBU VEEDU, RESIDING AT KANNANKUKLATH
-DO- -DO-.

5. KERALA STATE,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.JOHNSON ABRAHAM FOR R1 TO R4
SRI.S.GOPINATHAN
SRINELSON ABRAHAM
SMT.RUBY P.PAULOSE
SRI.K.J.VINCENT PIOUS
P.P.SRI.THOMAS JOHN AMBOOKKAN FOR R5

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 13-8-2007 , THE COURT ON 13/08/2007 DELIVERED THE FOLLOWING:

K. Thankappan, J.

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Crl.A.No. 1748 of 2003

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Dated this the 13th day of August,2007

JUDGMENT

The appellant filed S.T.No.2959/2000 before the Court of the Judicial First Class Magistrate-I, Aluva alleging that respondents 1 to 4 had committed an offence punishable under sections 447 and 427 read with section 34 IPC. The trial court after considering the entire evidence found that the appellant has failed to prove the charge levelled against respondents 1 to 4 beyond reasonable doubt and hence they were not guilty of offence punishable under sections 447 and 427 read with section 34 IPC. The above finding is challenged in this appeal.

2. The grounds urged in the appeal are as follows:- Firstly, it is contended that the trial court mis-read the evidence of the witnesses and also the documents produced by the appellant. Secondly, it is contended that the contradictions of the evidence of the witnesses alleged to have been found by the trial court are minor in nature and it would not affect the case of the appellant.

3. On considering the contentions raised by the appellant and on going through the evidence of the witnesses once again, this Court is of the

view that the finding of the trial court requires no interference by this Court. Even the evidence of PW1 would not prove that respondents 1 to 4 had committed any offence to attract section 447 or 427 IPC. That apart, the evidence of PWs.2 to 5 would not show that the 1st respondent had attempted to trespass the property of PW1. The trial court after considering the evidence found that the the evidence adduced bythe appellant was not sufficient to prove the charge levelled against respondents 1 to 4. Hence, the finding of the trial court are on evidence and this Court feels that there is no compelling circumstances or reasons exist to interfere with the impugned judgment. Accordingly, the appeal stands dismissed confirming the judgment of the trial court.

K.Thankappan,
Judge.

mn.

K. Thankappan, J.

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Crl.A.No. /200

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Judgment
-6-2007